IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No. 1886 OF 2001

PETITIONER : Rikhiram Kewat, son of Nanhiram, aged about 32 years, ex.Panchayat Secretary, village Panchayat Birda, resident of village Birda, Tah: Katghora,Dist.Korba (Chhattisgarh).

P.R. No. ... dated ... Presented by Shri S.N.Shrivastava

Vs.

RESPONDENTS :

1. The State of Chhattisgarh: Through: Secretary, Panchayat & Rural Development Department, D.K.Bhawan, Raipur,Dist.Raipur, (Chhattisgarh).

2. Chief Executive Officer, Jarpath Panchayat, Katghora, Dist. Korba (Chhattisgarh).

3. Sarpanch, village Panchayat Birda, Block Katghora, Dist. Korba (Chhattisgarh).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERCIORARI, MANDAMUS, PROHIBITION ETC. AND FOR THE OTHER WRIT OR WRITS, ORDER / ORDERS, DIRECTION / DIRECTIONS.

DETAILS OF THE PETITION

1. PARTICULARS OF THE PETITIONER :-

AS Given in the Cause Title above.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(59)

आदेश पत्रक

मामला क्रमांक W.P.No.1886/ सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27.11.2001

Heard Smt.Anju Ahuja, learned counsel for the petitioner.

Heard also Shri Gautam Bhaduri, learned Government Advocate for the respondent / State.

Return has been filed.

Smt.Anju Ahuja says that she is ready to argue the case and she does not intend to file rejoinder. It has been argued on behalf of the respondents that the impugned order of termination issued on 16.07.2000 consequent to the resolution passed on 14.04.2000 is appealable before Sub-Divisional Officer. In the return field this petition has been contested on merit and no such objection has been taken in the pleading.

Therefore, I am of the opinion that in the present case though it has been seriously argued on behalf of the respondents that the provision of appeal ought to have been exhausted, in view of the fact that the respondents have filed return on merit it may be fair for me to proceed to decide the present case on merit instead of issuing a direction to the appellate authority to examine this matter. It appears the main grievance of the writ petitioner is that though a very serious action has been taken against him no

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———show cause notice was issued nor was he given any opportunity of being heard before such serious action of termination was taken.

It is submitted on behalf of the respondents that the offence alleged against the petitioner is of grave nature involving moral turpitude. The allegation is that of misappropriation of some fund meant for maternity benefit. There is nothing to show that enquiry as such was made. It seems the impugned order of termination was issued merely on the basis of resolution passed in this regard on 14.04.2000 on the ground that the petitioner had misappropriated certain amount of money. I may also add here that no such charge as such was formally framed against the petitioner before the impugned order of termination was issued. Even assuming that prima facie the allegation is found out such drastic punishment of termination of service of the writ petitioner as Panchayat Secretary could not have been imposed without a finding of guilt after a proper enquiry is made. It has been submitted on behalf of the respondent where as the impugned order was issued in July, 2000, the writ petitioner approached this Court by filing a writ petition under Article 226 of the Constitution of India only in the month of September, 2001 and ~~the~~ there is no satisfactory

GRPRJ—FS/311—1/2001—50,000.

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(60)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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explanation as regards the delay in filing the writ petition. Apparently, some unexplained delay is there.

In my view, the writ petitioner either would have approached the appellate authority or approached this Court soon after the order of termination was issued. In this regard, Smt.Anju Ahuja submits that in fact the writ petitioner came to know that he had been terminated only in the month of August, 2000 and thereafter he also approached Chief Executive Officer to reconsider. Be that as it may, in view of the fact that no enquiry whatsoever was made, in my view the impugned order of termination is not sustainable inasmuch as principle of natural justice is ~~invaluable~~ violated.

In the result this petition is allowed. The impugned order of termination dated 16.07.2000 is set aside. However, since the allegation is as regards embezzlement of public money, it is open to the competent authority to initiate enquiry against the petitioner. If such enquiry is ~~already~~ initiated, the same should be concluded at the earliest and not later than ~~say~~ 03 months from the date of receipt of this order.

Sd/-
Chief Justice

SS

[पान पलटिए